

NEBRASKA COOPERATIVE COUNCIL

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Dockets Unit
Research & Special Programs Administration
U.S. Department of Transportation
400 Seventh Street, SW, Room 8421
Washington DC 20590-0001

RE: Supplemental Notice of Proposed Rulemaking and Notice of Public Meeting
Docket #HM-200, Notice #96-6

To Whom It May Concern:

On behalf of its membership of more than 100 agricultural marketing and farm supply cooperatives, the Nebraska Cooperative Council, a statewide, non-profit, non-partisan trade association, would like to express opposition to the proposal to eliminate intrastate exceptions from the Federal Hazardous Materials Regulations (HMR). We respectfully request that this letter be incorporated into the official record in response to the Supplemental Notice of Proposed Rulemaking as published in the Federal Register, Volume 61 Number 55, for March 20, 1996.

Undoubtedly, the extension of HMR to intrastate carriers would have an adverse economic impact on Nebraska's agricultural industry by causing additional and unnecessary compliance requirements when vehicle usage is considered. Regulations designed to improve safety in long distance transportation including densely-populated areas will only create an unwarranted expense to agriculture and an unnecessary burden on state and federal documentation and enforcement agencies.

It should be denoted that in 1986 the Nebraska Legislature adopted federal HMR 49 CFR with exemptions to hazardous materials placarding for liquefied petroleum gas tanks with a capacity of 3,500 gallons or less and anhydrous ammonia and flammable liquid tanks with a capacity of 3,000 gallons or less. In addition, agricultural producers were exempted from HMR while transporting fuels, fertilizers, and agricultural chemicals used in a normal farming or ranching operation on the farm or ranch.

In October 1993, the Nebraska Cooperative Council (on behalf of its membership) expressed its opposition to the HM-200 proposal published in the July 9, 1993, Federal Register which would amend the HMR to require that all intrastate shippers and carriers comply (Docket HM-200, Notice 93-17). At that time, we provided data regarding the economic impact of HM-200 on the agricultural industry and recommended that the implementation of the regulations be delayed to afford the opportunity to further assess the economic impact.

As part of our submission in response to Notice #93-17 in 1993, the Nebraska Cooperative Council provided an estimate of the financial impact from inclusion of agricultural producers in complying with HM-200. Based on a conservative estimate of two (2) vehicles used per farm for hauling agricultural chemicals to the field, the cost (estimated at that time) would be \$3,275 per farm.

Please refer to the attached detailed explanation of costs incorporated within the estimate. By applying this estimate per farm to the 56,000 farms in Nebraska, the total lost income to agricultural producers would be \$183,400,000 in our state alone. Undoubtedly, those costs have increased by at least another 6%-7% since these estimates were developed in 1993.

While local farm supply and marketing cooperatives in Nebraska are currently meeting many of the requirements of HMR, it does appear that additional vehicles (i.e., anhydrous ammonia, LP gas, and flammable liquid tanks) currently exempted from placarding would be subjected to HMR. Elimination of these exemptions would create unwarranted and unnecessary expenses to these businesses.

We continue to support the need for federal exceptions from the HMR when agricultural chemicals and other hazardous materials are being transported from retail to farm and from farm to farm. Therefore, we are recommending that the RSPA adopt definitions and federal exceptions from the shipping paper, placarding, and 24-hour phone number requirements for agricultural production materials involved in agricultural movements as follows:

☐ Definitions:

Agricultural Production Materials - "a material, including a hazardous material or hazardous substance, that is transported in direct support of the principal business of producing an agricultural commodity or fulfilling an agricultural activity. This includes, but is not limited to, pesticides, fertilizer, and fuel."

Agricultural Movement - "the transportation of an agricultural production material within a 150-mile radius that occurs from the local source of supply to final end user, from farm to farm, between fields, and from farm back to the local source of supply."

☐ Federal exception from the shipping paper, placarding, and 24-hour phone number requirements for agricultural production materials involved in agricultural movements as follows:

- ◆ Up to 5,000 pounds of a single class of hazardous material in DOT-approved containers including less than case lot quantities
- ◆ Any quantity of agricultural production materials (including hazardous materials or hazardous substances) diluted in water or fertilizer in preparation for field application; ammonium nitrate fertilizer when transported in fertilizer application equipment in quantities less than 468 cubic feet or equipment used to service same; anhydrous ammonia transported in tanks with a capacity of 3,000 gallons or less; liquefied petroleum gas transported in tanks with a capacity of 3,500 gallons or less; diesel fuel and gasoline when transported in tanks with a capacity of 3,000 gallons or less as long as the tank, its components, and attached equipment are electrically bonded and secured to the vehicle and protected from damage and leaking

July 1, 1996

Page 3

The issue of safety to those working in the agricultural industry and the general public is always of major concern; however, the aforementioned exceptions would not create a safety hazard, particularly in primarily rural states such as Nebraska which have low volume traffic over county roads and state highways. It is worth noting that, for example, the National Safety Council in the 1995 Edition of Accident Facts reported only 25.8% of the total accidents in the United States involved light to heavy trucks which are those most commonly used in the agricultural sector.

The Federal Highway Administration (FHWA) has established a precedent on allowing states to provide relief for agricultural operations under Federal Motor Carrier Safety Regulations (FMCSR). Recently, states were allowed an exemption for agricultural movements from the requirements of Part 395 (hours of service) during planting and harvesting seasons. Several years ago, FHWA allowed states the opportunity to waive the requirements of the Commercial Drivers License (CDL) for farmers who operated commercial motor vehicles as part of their farming business.

We strongly recommend that the exceptions identified in this communication be incorporated into the HM-200 to provide the agricultural industry relief from burdensome regulations.

Sincerely,



Robert C. Andersen
President

RCA/dam
enclosure

c: Senator Bob Kerrey
Senator J. James Exon
Congressman Bill Barrett
Congressman Doug Bereuter
Congressman Jon Christensen

**ESTIMATES OF COSTS ASSOCIATED WITH IMPOSITION OF
FEDERAL HAZARDOUS MATERIALS TRANSPORTATION
REGULATIONS ON INTRASTATE TRAFFIC (HM-200)**

Estimated Costs to Family Farmers (2 vehicles per farm)

<u>Additional Regulations</u>	<u>Costs</u>
Shipping papers, labels, and placards	\$100
Contract of an approved 24-hour Emergency Response phone service	250
Training of employees	900
Federal registration to haul hazardous materials	50
Testing and inspections of "specification cargo tanks"	200
Driver qualifications file maintenance	100
Driver drug test	75
Tire wear limits (4/32" front, 2/32" rear)	600
Hours of service--force hiring additional help	300
Annual vehicle inspections	200
Driver daily inspection and record keeping time	<u>500</u>
TOTAL	\$ 3,275